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EX PARTE

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April 3, 2009

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Comment Procedures Established Regarding the Commission's
Consultative Role in the Broadband Provisions of the Recovery Act*
GN Docket No. 09-40

NOTICE OF *EX PARTE* MEETING

Dear Ms. Dortch:

On April 2, 2009, the undersigned and Melissa Newman, both representing Qwest Corporation ("Qwest"), met with Federal Communications Commission ("Commission") staff members Thomas Buckley, Ian Dillner, Bill Dever, Kevin Holmes, Jeff Cohen, Brian Wondrack and Brenda Boykin, pursuant to the Commission's Public Notice (GN Docket No. 09-40, DA 09-668, rel. Mar. 24, 2009) in the above-referenced proceeding, concerning the Commission's consultative role in the broadband provisions of the *Recovery Act*.¹ We provided the staff with Qwest's views on the definitions of "unserved area," "underserved area" and "broadband." We also discussed the "non-discrimination" and "interconnection" obligations that will be contractual conditions of the Broadband Technologies Opportunities Program ("BTOP") that is to be administered by the National Telecommunications and Information Administration pursuant to the *Recovery Act*. Below are Qwest's views with respect to these definitions and contractual conditions.

¹ *American Recovery and Reinvestment Act of 2009*, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("*Recovery Act*").

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Unserved Area

An area should be considered unserved if the area cannot receive Basic Broadband Tier 1 service as defined by the Commission.

Underserved

A one-size fits all definition of underserved for all areas is too rigid. Underserved areas should be determined on an individual case basis.

Broadband

Broadband should be defined in relation to speed in the download direction, on a technology neutral basis.

Nondiscrimination

For the purpose of the administration of the BTOP, this obligation should be satisfied through compliance with the Commission's Broadband Policy Statement (20 FCC Rcd 14986, FCC 05-151, adopted Aug. 5, 2005). Potential applicants should be put on notice that pursuant to the *Recovery Act* the Commission is charged with submitting to Congress, within one year after the date of enactment, a report containing a national broadband plan that may address the Broadband Policy Statement.

Interconnection

While Qwest is not sure what is meant by interconnection in this context, Qwest believes that with respect to Internet backbone facilities, interconnection should continue to be governed by commercial arrangements as is the case today. Outside of the context of Internet backbone facilities, the existing body of interconnection rules in place is sufficient, and no additional rules are needed as contractual conditions for BTOP grants.

Please contact me if you have any questions or require additional information.

Respectfully submitted,

/s/ Lawrence E. Sarjeant
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